



PATENT APPLICATION

Docket No. LAR50-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
)
 Steven S. Larsen)
)
 Application No.: 10/690,421) Art Unit
) 3732
 Confirmation No.: 3835)
)
 Filed: 10/20/2003)
)
 For: Endodontic instrument)
)
 Examiner: Lewis, Ralph A.)

PETITION TO REVIVE ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of Petitions

Sir/Madam:

Statement of unintentional failure to file a continuation in part application.

This application was filed on October 20, 2003, and after prosecution and appeal, became abandoned on November 17, 2011. Applicant now respectfully requests revival of the application in order to file a continuation-in-part application, which is submitted herewith as Exhibit A, concurrent with filing (Application No. 13/444,367; Confirmation No. 4938), and along with corresponding fees.

By way of background, this is Applicant's first patent application. The underlying product is the foundation of a family business involving Applicant's children and they depend on it for their support. Applicant has acted diligently throughout, but has relied on former patent counsel for information regarding status and strategy.

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Applicant has not been accurately informed of either status or strategy from former counsel. For example, Applicant did not know that former counsel obtained lengthy extension periods and passed on the accompanying fees. Applicant did not timely know of options relating to a request for continued examination (RCE) or continuation applications prior to abandonment.

On April 2, 2012, Applicant hired undersigned counsel to review the application. Applicant became informed that the application was abandoned. Applicant did not intend that the application become abandoned. The abandonment was unintentional.

Applicant has expended time and resources towards preparation of an expedited continuation-in-part (CIP) application, which he now wishes to file. The CIP is prepared with the intent of overcoming all former objections and rejections by the examiner and appeals board, and to correct what Applicant perceives as deficiencies in the original application occasioned by former counsel.

A declaration from the Applicant on this subject is included herewith. From November 17, 2011 to April 2, 2012, the abandonment was unintentional because Applicant was not aware of either status or options. From April 2, 2012 to the time of this filing, undersigned counsel has actively worked with Applicant to review the file and draft this petition and the reply. The entire delay in filing this required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

On behalf of Applicant, the undersigned respectfully and sincerely requests that the application be revived to allow for the filing and examination of the CIP.

Dated this 10th day of April, 2012.

Respectfully submitted,

/Preston P. Frischknecht/
Preston P. Frischknecht
Attorney for Applicant
Registration No. 61,312
Customer No.: 062733
Telephone No. 435-787-9700



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In re application of: Steven S. Larsen)
Application No.: 10/690,421) Art Unit
Confirmation No.: 3835) 3732
Filed: 10/20/2003)
For: Endodontic instrument)
Examiner: Lewis, Ralph A.)

**DECLARATION OF APPLICANT STEVE LARSEN IN SUPPORT OF
PETITION TO REVIVE ABANDONED APPLICATION
UNDER 37 C.F.R. §1.137(b)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Office of Petitions

Sir/Madam:

I hereby make the following declaration, under penalty of perjury, and under applicable state and federal law:

1. In 2003 I hired patent counsel to assist with this patent application.
2. This application is my first, and I do not otherwise have any experience prosecuting patent applications.

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3. This patent application is important to me because the underlying product is part of a family business in which I involve my children and upon which they depend for support.

4. Throughout the prosecution and appeal of this patent application, I have acted diligently and relied on my counsel to inform me as to status and all of my options for pursuing a patent.

5. But, I have not been accurately informed of the status of the application and all of my options for pursuing it.

6. On April 2, 2012 I hired new counsel to examine my file and inform me as to the status of the matter.

7. I am informed that former counsel obtained numerous, lengthy extensions during prosecution of this application, of which I was unaware, and for which I paid.

8. Significantly, I was not timely made aware of all of the options for pursuing the patent application or the underlying technology, including through a request for continued examination (RCE) or continuation-type applications.

9. From new counsel, I understand that my application is now termed "abandoned" by the USPTO as of November 17, 2011.

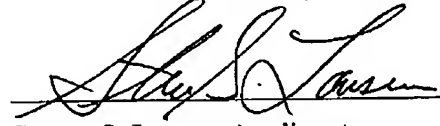
10. I did not intend to abandon my patent application at that time and to date.

11. Any abandonment of my patent application was unintentional.

12. Better understanding the current status, I now desire to file a continuation-in-part (CIP) application to address and overcome all former objections and rejections by the examiner and appeals board, and what I perceive as deficiencies in the original application.

13. Under these circumstances, I respectfully request that you allow me to "revive" my patent application to file the CIP, which I understand will be submitted with this request.

EXECUTED this 3rd day of April, 2012.


Steven S. Larsen, Applicant



4/11/2012 2:42 PM FROM: peckhadfield7872455 TO: 1 571 273-8900 PAGE: 008 OF 038

Exhibit A

**Electronic Acknowledgement Receipt**

EFS ID:	12519182
Application Number:	13444367
International Application Number:	
Confirmation Number:	4938
Title of Invention:	Endodontic Instrument
First Named Inventor/Applicant Name:	Steven S. Larsen
Customer Number:	62733
Filer:	Preston Paul Frischknecht/Heidi Dryden
Filer Authorized By:	Preston Paul Frischknecht
Attorney Docket Number:	LAR50-001
Receipt Date:	11-APR-2012
Filing Date:	
Time Stamp:	15:56:55
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$620
RAM confirmation Number	2647
Deposit Account	
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1	Application Data Sheet	1ADS.pdf	1023112 1448796382c9e874d9fe241b0ba080db991b63d	no	4
Warnings:					
Information:					
2	Specification	2Spec.pdf	98390 74bc5ceec77ba046cb07d65dd2ebab7fb762df	no	7
Warnings:					
Information:					
3	Claims	3Claims.pdf	89644 0a770d4ae2165c5b7342476897543bab345f8a8c	no	5
Warnings:					
Information:					
4	Abstract	4Abstract.pdf	76197 d2006286d77afdde8d7fed680660d67ceeb4a5ca	no	1
Warnings:					
Information:					
5	Oath or Declaration filed	6SgndODCIP.pdf	174608 8bfed6efc16afbaf4ef5ab7be0e36758990f4c8	no	4
Warnings:					
Information:					
6	Power of Attorney	7SgndPOACIP.pdf	97617 1696a324ebf4d0d9248804cd57f3dd6cd4e753b3	no	2
Warnings:					
Information:					
7	Drawings-only black and white line drawings	5Fig1-5.pdf	61173 cddb94ba72659c872d8a0170a0d419b50452b93c	no	4
Warnings:					
Information:					
8	Fee Worksheet (SB06)	fee-info.pdf	36007 a0a897d6a18313905217754ca8bc1b5138ba897	no	2
Warnings:					
Information:					
Total Files Size (In bytes):				1656748	

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	LAR50-001
		Application Number	
Title of Invention	Endodontic Instrument		
The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.			

Secrecy Order 37 CFR 5.2

- ☐ Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)

Applicant Information:

Applicant 1				
Applicant Authority <input checked="" type="radio"/> Inventor		<input type="radio"/> Legal Representative under 35 U.S.C. 117		<input type="radio"/> Party of Interest under 35 U.S.C. 118
Prefix	Given Name	Middle Name	Family Name	Suffix
Dr.	Steven		Larsen	
Residence Information (Select One) <input checked="" type="radio"/> US Residency <input type="radio"/> Non US Residency <input type="radio"/> Active US Military Service				
City	North Logan	State/Province	UT	Country of Residence US
Citizenship under 37 CFR 1.41(b)		US		
Mailing Address of Applicant:				
Address 1		150 East 200 North, Ste. G		
Address 2		Professional Plaza		
City	Logan	State/Province	UT	
Postal Code	84321	Country	US	
All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the Add button. Add				

Correspondence Information:

Enter either Customer Number or complete the Correspondence Information section below. For further information see 37 CFR 1.33(a).	
<input type="checkbox"/> An Address is being provided for the correspondence information of this application.	
Customer Number	62733
Email Address	Add Email Remove Email

Application Information:

Title of the Invention	Endodontic Instrument		
Attorney Docket Number	LAR50-001	Small Entity Status Claimed	<input checked="" type="checkbox"/>
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)		Sub Class (if any)	
Suggested Technology Center (if any)			
Total Number of Drawing Sheets (if any)	4	Suggested Figure for Publication (if any)	

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Application Data Sheet 37 CFR 1.76	Attorney Docket Number	LAR50-001
	Application Number	
Title of Invention	Endodontic Instrument	

Publication Information:
☐ Request Early Publication (Fee required at time of Request 37 CFR 1.219)

Request Not to Publish. I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

Representative Information:

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32). Enter either Customer Number or complete the Representative Name section below. If both sections are completed the Customer Number will be used for the Representative Information during processing.

Please Select One:	<input checked="" type="radio"/> Customer Number	<input type="radio"/> US Patent Practitioner	<input type="radio"/> Limited Recognition (37 CFR 11.9)
Customer Number	62733		

Domestic Benefit/National Stage Information:

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78(a)(2) or CFR 1.78(a)(4), and need not otherwise be made part of the specification.

Prior Application Status	Abandoned	Remove	
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)
	Continuation in part of	10690421	2003-10-20

Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the **Add** button.

Foreign Priority Information:

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Remove			
Application Number	Country ¹	Parent Filing Date (YYYY-MM-DD)	Priority Claimed
			<input checked="" type="radio"/> Yes <input type="radio"/> No

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

Assignee Information:

Providing this information in the application data sheet does not substitute for compliance with any requirement of part 3 of Title 37 of the CFR to have an assignment recorded in the Office.

Assignee 1

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Application Data Sheet 37 CFR 1.76		Attorney Docket Number	LAR50-001
		Application Number	
Title of Invention	Endodontic Instrument		

If the Assignee is an Organization check here. <input type="checkbox"/>				
Prefix	Given Name	Middle Name	Family Name	Suffix
Mailing Address Information:				
Address 1				
Address 2				
City		State/Province		
Country		Postal Code		
Phone Number		Fax Number		
Email Address				
Additional Assignee Data may be generated within this form by selecting the Add button.				

Signature:

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.					
Signature	/Preston P. Frischknecht/			Date (YYYY-MM-DD)	2012-11-04
First Name	Preston	Last Name	Frischknecht	Registration Number	61312

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**



Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.